IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

WA.No. 1230 of 1998(C)

AGAINST THE JUDGEMENT IN OP.7651/1992 Dated 24/02/1998

APPELLANT: PETITIONER:

K.V.RAGHU, PROPRIETOR, REKHA SAW MILL,
PATTIAM HIGH SCHOOL ROAD, KOTTAYODI,
P.O.PATHAYAKUNNU, THALASSERY.

BY ADV. SRI.E.V.NAYANAR

RESPONDENTS: RESPONDENTS:

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1. K.C.CHATHUKUTTY, MANIYARAKKAL HOUSE,
P.O.PALAYAD.

2. THE LABOUR COURT, KANNUR.

ADDL.R3 TO R8 IMPLEADED:

ADDL.R3 C.GOURI, AGED 61 YEARS, KANIYARAKKAL HOUSE,
P.O.PALAYAD, ANDALOOR, KANNUR DISTRICT.

" 4. C.RAMESHAN, AGED 41 YEARS, -DO- -DO-

" 5 C.DINESHAN, AGED 38 YEARS, -DO- -DO-

" 6 C.SUDHA, AGED 34 YEARS, -DO- -DO-

" 7 C.LATHA, AGED 31 YEARS, -DO- -DO-

" 8 C.GEETHA, AGED 27 YEARS, -DO- -DO-

ADDL.R3 TO R8 IMPLEADED AS PER ORDER DATED 14.11.2005 IN I.A.NO.2230/2005.

BY ADV. SRI.SHEJI P.ABRAHAM
R2 BY SENIOR GOVERNMENT PLEADER SRI.M.R.SABU

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 27/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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W.A. No. 1230 OF 1998

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Dated this the 27th June, 2007

J U D G M E N T

H.L. Dattu, C.J.:

Challenging the correctness or otherwise of the orders passed by the learned single Judge in O.P.No.7651 of 1992 dated 24th February, 1998, the petitioner/appellant is before us in this appeal.

2. In the Original Petition filed, the petitioner had raised two issues. The first issue was with regard to the relationship between the petitioner and first respondent, as an employer and an employee. The second issue was with regard to the amount of compensation awarded by the Labour Court.

3. In so far as the first issue is concerned, the learned single Judge is of the opinion that the Labour Court, after going through the entire evidence on record, has come to the conclusion that there existed a relationship of employer-employee between the petitioner and the first respondent, viz., late K.C. Chathukutty. The Court has further observed that this court cannot sit as an appellate court over the awards passed by the Labour Court/Industrial Tribunal unless the awards so passed is

without any evidence on record or the orders passed are so illegal or arbitrary that no reasonable person can ever think of passing orders by the Tribunal/Labour Court. This Court had taken into consideration the fact that the Labour Court, after recording the evidence of the parties and after appreciating the evidence so recorded, has positively come to the conclusion that there existed a relationship of an employer-employee between the petitioner and the first respondent and therefore, it is opined by the learned single Judge that the said findings of the Labour Court need not be disturbed by this court. This finding of the learned single Judge, in our opinion, is not only fair but also just. Therefore, we do not intend to disturb the order of the learned single Judge in regard to this issue.

4. In so far as the second issue is concerned, taking into consideration the difficulties pleaded by the petitioner, the Court had remanded the matter to the Labour Court to decide afresh, with regard to the amount of arrears of wages payable to the deceased first respondent. This, in fact, is in favour of the petitioner/appellant.

5. Therefore, the findings and the directions issued by the learned single Judge, by the impugned judgment, does not call for our interference. Accordingly, the Writ Appeal requires to be rejected and

it is rejected.

6. The Registry is directed to send a copy of this order to the petitioner/appellant without fail. Liberty is reserved to the petitioner/appellant, if he is aggrieved by the orders passed by us, to make an appropriate application to re-call/modify the orders passed by us.

7. C.M.P.No. 3251 of 1998 is also disposed of.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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H.L. DATTU, C.J. &
K.T. SANKARAN, J.

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J U D G M E N T